

AMENDED IN ASSEMBLY MARCH 2, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 235

Introduced by Assembly Member Halderman

February 3, 2011

An act to amend Section 6268 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 235, as amended, Halderman. Public records: clemency records.

Existing law, the California Public Records Act, requires state and local agencies to make their records available for public inspection and, upon request of any person, to provide a copy of any public record unless the record is exempt from disclosure. Existing law authorizes the Governor, upon leaving office, from restricting access to certain records, as specified, except that the Governor ~~shall not impose~~ *is prohibited from imposing* any restriction whatsoever with respect to certain files, including, among others, writings relating to applications for clemency or extradition in cases which have been closed for a period of at least 25 years.

This bill would, instead, prohibit the Governor from imposing any restriction whatsoever on public access to writings relating to applications for clemency ~~or extradition~~. *This bill would require the Governor, prior to making any materials relating to an application for clemency public, to redact the home address, telephone number, and e-mail address of a victim of crime, or a family member of a victim of crime, from the materials.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6268 of the Government Code is amended to read:

6268. Public records, as defined in Section 6252, in the custody or control of the Governor when he or she leaves office, either voluntarily or involuntarily, shall, as soon as is practical, be transferred to the State Archives. Notwithstanding any other provision of law, the Governor, by written instrument, the terms of which shall be made public, may restrict public access to any of the transferred public records, or any other writings he or she may transfer, which have not already been made accessible to the public. With respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later, nor shall there be any restriction whatsoever with respect to enrolled bill files, press releases, speech files, ~~or writings relating to applications for clemency or extradition~~ *clemency, or writings relating to applications for extradition in cases that have been closed for a period of at least 25 years. Prior to making any materials relating to an application for clemency public, the Governor shall redact the home address, telephone number, and e-mail address, if any, of a victim of crime, or a family member of a victim of crime, from the materials.* Subject to any restrictions permitted by this section, the Secretary of State, as custodian of the State Archives, shall make all such public records and other writings available to the public as otherwise provided for in this chapter.

Except as to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition, this section shall not apply to public records or other writings in the direct custody or control of any Governor who held office between 1974 and 1988 at the time of leaving office, except to the extent that that Governor may voluntarily transfer those records or other writings to the State Archives.

Notwithstanding any other provision of law, the public records and other writings of any Governor who held office between 1974 and 1988 may be transferred to any educational or research institution in California provided that with respect to public records, public access, as otherwise provided for by this chapter, shall not

1 be restricted for a period greater than 50 years or the death of the
2 Governor, whichever is later. No records or writings may be
3 transferred pursuant to this paragraph unless the institution
4 receiving them agrees to maintain, and does maintain, the materials
5 according to commonly accepted archival standards. No public
6 records transferred shall be destroyed by that institution without
7 first receiving the written approval of the Secretary of State, as
8 custodian of the State Archives, who may require that the records
9 be placed in the State Archives rather than being destroyed. An
10 institution receiving those records or writings shall allow the
11 Secretary of State, as custodian of the State Archives, to copy, at
12 state expense, and to make available to the public, any and all
13 public records, and inventories, indices, or finding aids relating to
14 those records, which the institution makes available to the public
15 generally. Copies of those records in the custody of the State
16 Archives shall be given the same legal effect as is given to the
17 originals.

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